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Court Cuts Down Unanimous Verdicts

WASHINGTON (AP) — The Supreme Court Monday held that a person on trial in state court for a noncapital crime may be convicted or acquitted by a "substantial majority" of the jury.

States must follow the centuries-old custom of unanimous verdicts only when the judgment could lead to the death sentence, the 5-4 decision said.

Unanimity still is necessary to convict or acquit for a federal crime, however.

Four states—Oregon, Louisiana, Oklahoma and Montana—already use less-than-unanimous verdicts. The ruling may encourage other states to follow although the court decision does not make this mandatory.

Justice Byron R. White, speaking for the court, did not specify how substantial the majority vote must be. Evidently, 9-3 verdicts are allowable because they are authorized by the Louisiana law approved in the decision.

The ruling, in cases from Louisiana and Oregon was produced by White and President Nixon's four appointees: Chief Justice Warren E. Burger, and Justices Harry A. Blackmun, Lewis F. Powell Jr., and William H. Rehnquist.

All except Powell concluded that the Sixth Amendment guarantee of trial by jury does not carry with it the requirement that the jury be unanimous.

Powell supplied the critical fifth vote with the view that the 14th Amendment, which channels the Bill of Rights to the states, does not require unanimous juries. He said states must be free to experiment

with criminal procedures different from the federal model.

Had Powell gone all the way with White, Burger, Blackmun and Rehnquist, the unanimous rule at the federal level also could have been overturned.

The Supreme Court never has expressly required unanimous jury verdicts at state trials, but it has several times insisted upon unanimity in federal trials.

Justices William O. Douglas, William J. Brennan Jr., Thurgood Marshall and Potter Stewart dissented.

Douglas said the ruling is "in the tradition of the Inquisition." Brennan said it could destroy the right of racial and other minorities to serve on juries. Marshall said it cut the heart out of an important Bill of Rights safeguard. And Stewart said it runs counter to centuries of history and experience.

But White said the principal function of the jury is to interpose "a group of laymen representative of a cross section of the community" between the prosecutor and the defendant.

He said a jury need not be unanimous to fulfill this function. Also, White noted that Louisiana adopted its system to speed trials and reduce court costs.

Blackmun said that if he were a legislator he would be against the split-verdict system. "My vote means only that I cannot conclude that the system is constitutionally offensive," he wrote.

The ruling dominated a busy day in which the court approved federal and state laws that take away some of the immunity from prosecution pre-

viously granted to balking witnesses.

With identical 5-2 rulings in cases from California, New Jersey and Illinois, the court said the Fifth Amendment does not shield coerced witnesses from all prosecution. It is enough, said Powell for the majority, to grant them immunity from prosecution based only on what they told the grand jury or "Leads" from their testimony.

In a third ruling, the court cleared the way for integration of Minneapolis's all-white fire department.

Mayor Charles Stenvig and two civil service commissioners had challenged a lower court ruling that 20 of the next 60 firemen hired by the city must be black or members of other minority groups. The 13-member City Council opposed the appeal.

It was turned down by the high court unanimously and without comment.

In other actions the court:

—Granted a hearing to a small electrical company charged with monopolizing retail electrical energy distribution to parts of rural Minnesota, North Dakota and South Dakota.

—Turned aside a last-ditch appeal by WHDH, Inc., to reopen federal communications commission consideration of a switch of ownership of Boston's Channel 5 to Boston Broadcasters, Inc.

—Rejected petitions by New York and New Jersey for review of a temporary deferment granted the Penn Central railroad on payment of \$34.6 million in taxes due to agencies in 34 states and the District of Columbia.